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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,219	07/08/2003	John R. Zaleski	2003P01822 US01	9773

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EXAMINER

LUU, MATTHEW

ART UNIT	PAPER NUMBER
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2676

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/616,219

Applicant(s)

ZALESKI, JOHN R.

Examiner

LUU MATTHEW

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>July 8, 2003</u> | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 recites the limitation "said image element common display attribute" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 7, 9, 12, and 18-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Biondi et al (US 2003/0037786).

Regarding claim 1, Biondi et al disclose (Figs. 1, 7, and 9) a system for providing a user interface presenting patient medical parameter data, comprising:

an acquisition processor (Fig. 1, embedded controller 14) for acquiring, from a patient monitoring device (ventilator 17 and sensor monitoring system 19) data representing a patient parameter; and

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a processor (display controller 12 and micro-processor 22) for initiating generation of data representing at least one display image (Fig. 7) including,

(a) a current value of a patient parameter (Fig. 7, patient airway flow 74 and airway pressure 76) (see page 4, section [0051], lines 5-14); and

(b) a sliding bar (Fig. 9, airway pressure sliding bar 106) representation of the patient parameter current value (110) together with a range indicator (high alarm 114 and low alarm 116) for graphically indicating whether the current value is out side of a user determined range (pages 5-6, section [0059] and [0060]; see also page 4, section [0050], lines 11-13).

Regarding claim 2, Biondi et al discloses (Figs. 7 and 9) a sliding bar (Fig. 9, airway pressure sliding bar 106) representation of the patient parameter current value (110) together with a range indicator (high alarm 114 and low alarm 116) having a common display attribute for graphically indicating whether the current value is out side of a user determined range (pages 5-6, section [0059], "Important current set values are highlighted" and [0060]; see also page 4, section [0050], lines 11-13).

Regarding claim 3, Biondi et al teach the image element common display attribute comprise at least one of highlighting or coloring (pages 5-6, section [0059], "Important current set values are highlighted"; also lines 11-13) (see also page 6, section [0062], lines 11-13).

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Regarding claim 4, Biondi et al disclose (Fig. 9) the sliding bar representation permits user selection of an excessive range indicator (high alarm 114) and graphically indicates where the current value (110) is within a range (high alarm 114 and low alarm 116).

Regarding claim 7, Biondi et al disclose (Fig. 9) the sliding bar representation (106) includes at least one (d) a patient parameter label (Airway Pressure).

Regarding claim 9, Biondi et al disclose (Fig. 1) the patient parameter comprises a ventilation parameter.

Regarding claim 12, Biondi et al disclose (Fig. 9 and 16) the sliding bar along a single vertical axis.

Regarding claim 18, Regarding claim 1, Biondi et al disclose (Figs. 1, 7, and 9) a system for providing a user interface presenting patient medical parameter data, comprising:

a processor (display controller 12 and micro-processor 22) for initiating generation of data representing at least one display image (Fig. 7) including,

a linear sliding bar (Fig. 9, airway pressure sliding bar 106) representation of the patient parameter current value (110) permitting user selection of a range limit identifier (high alarm 114 and low alarm 116), the range limit identifier for graphically indicating

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whether the current value is out side of a user determined range (pages 5-6, section [0059] and [0060]; see also page 4, section [0050], lines 11-13).

Regarding claim 19, Biondi et al disclose (Fig. 9) the sliding bar representation permits user selection of an excessive range indicator (high alarm 114) and graphically indicates where the current value (110) is within a range (high alarm 114 and low alarm 116).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Biondi et al (US 2003/0037786).

Regarding claim 5, note the rejection as set forth above with respect to claim 1.

Biondi et al further disclose (Fig. 9) the sliding bar representation (106) includes a current value indicator (110); a plurality of range limit identifier image elements (high alarm 114 and low alarm 116); an individual range limit identifier (the range between the high level 40 and the low level 5).

The only difference between the disclosure of Biondi et al and the claimed invention is that the claim 5 requires the current value indicator (110) to have the

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common attribute (same color) with the individual range when the current value is within the individual range (the range between the high level 40 and the low level 5).

However, Biondi et al teaches at page 4, section [0005], "If the actual value exceeds an alarm limit, the exceeded value turns red and a large alarm message is displayed on the screen". Therefore, based on this teaching, it would have been to a person of ordinary skill in the art to recognize that, when the current value (110) is within the normal range; i.e. the range between the high level 40 and the low level 5, the color or attribute would not change; i.e. the attribute remains the same color. However, the color will change to red color if the current value exceeds an alarm limit.

Regarding claim 6, Biondi et al disclose (Fig. 9) the sliding bar representation permits user selection of an excessive range indicator (high alarm 114) and graphically indicates where the current value (110) is within a range (high alarm 114 and low alarm 116). Biondi et al further teach the image element common display attribute comprise at least one of highlighting or coloring (pages 5-6, section [0059], "Important current set values are highlighted"; also lines 11-13) (see also page 6, section [0062], lines 11-13).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Biondi et al (US 2003/0037786) as applied to claims 1 and 7 above, and further in view of Wallace et al (5,915,379).

Regarding claim 8, the only difference between the disclosure of Biondi et al and the claimed invention is that claim 8 requires a patient parameter label has a common display attribute with another different patient parameter label.

However, Wallace et al disclose (Fig. 5) the on-screen SAME PATIENT (225) button and NEW PATIENT button (230) have the common 3-D attribute and common infrared attribute (column 10, lines 1-5 and 29-33).

Since Biondi also teaches that different patient data can be stored and compared (Page 9, section [0129]), it would have been obvious to the person of ordinary skill in the art to use the on-screen SAME PATIENT (225) button and NEW PATIENT button (230), as taught by Wallace, into the patient ventilator display device of Biondi to provide visual cues to the user as to the status of the on-screen buttons or images when the data comparison between different patients is made.

Regarding claim 10, Wallace discloses (Fig. 10) the sliding bar (410a) comprises at least a linear scale (0 to 100).

Regarding claim 11, Wallace discloses (Fig. 10) the current value (420) and a range limit identifier scale (0 to 100). See column 17, lines 30-35.

Claim Rejections - 35 USC § 103

Claims 13-15, 17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Biondi et al (US 2003/0037786) as applied to claims 1 and 18 above, and further in view of Mostafavi (US 2004/0116804).

Regarding claim 13, note the rejection as set forth with respect to claim 1.

The only different between claim 1 and claim 13 is that the claim 13 requires the displaying of "a plurality of current values of a plurality of patient parameters".

However, Mostafavi discloses (Figs. 16-17) a system for providing a user interface presenting a plurality of current values (1608, 1610) of a plurality of patient parameters (AP-PA, LAT, S-I). See page 14, section [0156], and the last 6 lines.

Since Biondi et al also disclose the displaying of a plurality of patient parameters (74 and 76), it would have been obvious to the person of ordinary skill in the art to use the displaying of a plurality of current values, as taught by Mostafavi, into the displayed control slider (104) of Biondi et al to provide a patient medical display system, which helps the clinician to monitor and compare the current values of the patient with the prior stored data or with another different patient data.

Regarding claim 14, Mostafavi discloses (Figs. 16-17) a system for providing a user interface presenting a plurality of current values (1608, 1610) of a plurality of patient parameters (AP-PA, LAT, S-I) in a vertical orientation.

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Regarding claim 15, Mostafavi et al disclose (Fig. 1) the patient parameter comprises a respiratory related group of parameters. See page 14, section [0156], and the last 6 lines.

Regarding claim 17, Mostafavi discloses (Fig. 16) a plurality of current values (1608, 1610) and associated sliding bar representations of individual patient parameters (AP-PA, LAT, S-I).

Regarding claim 20, Mostafavi discloses (Fig. 21) the display image includes data entry boxes enabling a user to enter at least a normal parameter valued (box 2106).

Claim Rejections - 35 USC § 103

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Biondi et al in view of Mostafavi as applied to claim 15 above, and further in view of Wallace et al (5,915,379).

Biondi fails to disclose the receiving the patient mass and height information.

However, Wallace discloses (Fig. 5) a graphic user interface for a patient ventilator, wherein the patient body weight is entered for a new patient setup procedure. Column 11, lines 13-15.

It would have been obvious to the person in the art to enter the patient weight into the patient ventilator of Biondi et al to determine the initial values and ranges, or bounds, of the values of the various ventilator settings that are appropriate for use with a

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patient having particular body weight. Furthermore, it is conventional in the medical measurement system that the body weight and height of the patient must be entered for accurate measurement and testing. For example, the range of appropriate values for various medical measurement devices differs between adults and children.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

-Kamakura et al (6,429,869) disclose (Figs. 7-8 and 10) bar graphs are displayed in combination with a slider.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LUU MATTHEW whose telephone number is (703) 305-4850. The examiner can normally be reached on 9 hrs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RAZAVI MICHAEL can be reached on (703) 305-4713. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Luu



MATTHEW LUU
PRIMARY EXAMINER